

# Notice of Allowability

Application No.

10/694,723

Examiner

Elizabeth Houston

Applicant(s)

ALLEN ET AL.

Art Unit

3731

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment entered with RCE 04/05/07.
2. ☒ The allowed claim(s) is/are 1 and 3-9.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

- |  |   |
|--|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 5. <input type="checkbox"/> Notice of Informal Patent Application                     |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|  | 9. <input type="checkbox"/> Other _____   |

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Catherine Maresh on 05/07/07.

The application has been amended as follows:

**CANCEL CLAIMS 2, 10-22**

Amend **CLAIM 1** as follows:

Claim 1: An intraluminal stent device, comprising: two or more elements aligned to form adjacent elements, each element having a similar pattern of undulations forming peaks and valleys, said pattern being formed from a repeating series including

a straight long segment directly connecting with a first peak turn, said first peak turn being defined by a single turn radius, said first peak turn directly connecting with a first, straight midsize segment, said first midsize segment connecting with a first valley turn, said first valley turn connecting with a short segment, said short segment connecting with a second peak turn, said second peak turn connecting with a second midsize segment, said second midsize segment connecting with a second valley turn, said second valley turn connecting with a long segment of a similar adjacent series,

Art Unit: 3731

wherein either at least one first peak turn of a first element is connected to a first valley turn of an adjacent second element or at least one second peak turn of a first element is connected to a second valley turn of an adjacent second element,

wherein said elements are connected directly to adjacent said elements.

Amend CLAIM 3 as follows:

Claim 3: The intraluminal stent device of claim ~~[[2]]~~ 1, wherein the first element has a first connection point and a second connection point with an adjacent element, said first connection point being from a first peak turn of the first element to a first valley turn of the second element and wherein said second connection point is from a second peak turn of the first element to a second valley turn of the second element.

**Please replace paragraph [0042] beginning on page 13 with the following amended paragraph:**

The distance between ~~[[S]]~~second valley turn 148 may extend further or shorter in the longitudinal direction with respect to and first valley turn 124~~[[.]]~~ may be increased or decreased depending on the length of midsize segment 142. Preferably, first valley turn 124 does not extend as far in the longitudinal direction as second valley turn 148, because in a preferred embodiment, first and second midsize segments 118 and 142 are the same length. However, in other embodiments, second midsize segment 142 may be longer or shorter than first midsize segment 118.

## **REASONS FOR ALLOWANCE**

2. The following is an examiner's statement of reasons for allowance: There is no prior art of record alone or in combination that discloses all the elements of the claimed invention. Specifically Lowe (US 2004/0093073) does not disclose a "straight long segment directly connecting with a first peak turn, said first peak turn being defined by a single turn radius, said first peak turn directly connecting with a first straight midsize segment". Fischell (6,706,061) and Pinchasik (US 7,141,062) (WO 01/64133) do not disclose "at least one first peak turn of a first element connected to a first valley turn of an adjacent element or at least one second peak turn of a first element connected to a second valley turn of an adjacent second element".

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth Houston whose telephone number is 571-272-7134. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh Tuan Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3731

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

eh  
5/21/07

  
ANH TUAN T. NGUYEN  
SUPERVISORY PATENT EXAMINER

5/29/07